

FORM TO BE USED BY PRISONERS IN FILING A COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPISTEWART301161

COMPLAINT

(Last Name)

(Identification Number)

JohnALLEN, JR.

(PRO SE)

(First Name)

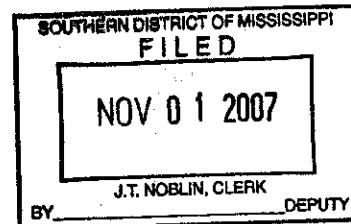
(Middle Name)

HARRISON Co. Adult JAIL

(Institution)

10451 LARKIN SMITH DRIVE

(Address)

(Enter above the full name of the plaintiff, prisoner, and address
plaintiff in this action)

v.

CIVIL ACTION NUMBER: 1:07CV1172LG-JMR

(to be completed by the Court)

HARRISON Co. Sheriff Dept.Sheriff GEORGE PAYNE, JR.Health Assurance, LLCDR. Compton, M.D.

(Enter above the full name of the defendant or defendants in this action)

OTHER LAWSUITS FILED BY PLAINTIFF

NOTICE AND WARNING:

The plaintiff must fully complete the following questions. Failure to do so may result in your case being dismissed.

- A. Have you ever filed any other lawsuits in a court of the United States? Yes () No (✓)
- B. If your answer to A is yes, complete the following information for each and every civil action and appeal filed by you. (If there is more than one action, complete the following information for the additional actions on the reverse side of this page or additional sheets of paper.)

1. Parties to the action: N/A2. Court (if federal court, name the district; if state court, name the county): N/A3. Docket Number: N/A4. Name of judge to whom case was assigned: N/A5. Disposition (for example: was the case dismissed? If so, what grounds? Was it appealed? Is it still pending?): N/A

PARTIES

(In item I below, place your name and prisoner number in the first blank and place your present address in the second blank. Do the same for additional plaintiff, if any).

I. Name of plaintiff: John Allen Stewart Prisoner Number: # 301161

Address: H C A D C
10451 LARKIN Smith DRIVE
Gulfport, Miss. 39503

(In item II below, place the full name of the defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use the space below item II for the names, positions, and places of employment of any additional defendants.)

II. Defendant: Sheriff GEORGE PAYNE, JR. et al is employed as
Sheriff of HARRISON Co. Sheriff Dept. at 10451
LARKIN Smith DRIVE, Gulfport, Ms. 39503

The plaintiff is responsible for providing the court the name and address of each plaintiff(s) as well as the name(s) and address(es) of each defendant(s). Therefore, the plaintiff is required to complete the portion below:

PLAINTIFF:

NAME: John Allen Stewart ADDRESS: 10451 LARKIN Smith Drive / Gpt. Ms. 39503
(ON BEHALF OF HIS DECEASED WIFE) CHERYL LYNN SMITH STEWART

DEFENDANT(S):

NAME: HARRISON Co. Sheriff Dept. ADDRESS: P.O. Box 1480 / Gpt. MS. 39502
② NAME: Sheriff GEORGE PAYNE, JR. ADDRESS: P.O. Box 1480 / Gpt. MS. 39502
③ NAME: Health Assurance, LLC ADDRESS: 10451 LARKIN Smith DRIVE / Gpt. MS. 39503
④ NAME: DR. Compton, M.D. ADDRESS: (Address unknown)

GENERAL INFORMATION

A. At the time of the incident complained of in this complaint, were you incarcerated because you had been convicted of a crime?

Yes () No (✓)

B. Are you presently incarcerated for a parole or probation violation?

Yes () No (✓) (Hold For Probation Violation /STATE OF ALABAMA)

C. At the time of the incident complained of in this complaint, were you an inmate of the Mississippi Department of Corrections (MDOC)?

Yes () No (✓)

D. Are you currently an inmate of the Mississippi Department of Corrections (MDOC)?

Yes () No (✓)

E. Have you completed the Administrative Remedy Program regarding the claims presented in this complaint?

Yes () No (✓), if so, state the results of the procedure: _____

F. If you are not an inmate of the Mississippi Department of Corrections, answer the following questions:

1. Did you present the facts relating to your complaint to the administrative or grievance procedure in your institution?

Yes (✓) No ()

2. State how your claims were presented (written request, verbal request, request for forms): _____

My deceased wife presented written requests
and grievances.

3. State the date your claims were presented: _____ N/A

4. State the result of the procedure: _____ N/A

STATEMENT OF CLAIM

- III. State here as briefly as possible the facts of your case. Describe how each defendant is involved. Also, include the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of different claims, number and set forth each claim in a separate paragraph. (Use as much space as you need; attach extra sheet if necessary.)

(SEE Enclosed Attached For
Plaintiff's Statement of
Claim.)

A DELIBERATE Indifference to Cheryl Lynn Stewart's
SERIOUS medical NEEDS that constitutes the
UNNECESSARY and wanton infliction of PAIN
PROSCRIBED by (U.S. CONST. AMEND. 8)

"WRONGFUL DEATH"

RELIEF

- IV. State what relief you seek from the court. Make no legal arguments. Cite no cases or statutes.

We seek for punitive damages relief in
the sum of 3.5 million Dollars

Signed this 19th day of October, 2007.

X John A Stewart Sr #301161

X 10451 Larkin Smith DR / Gpt. MS.
Signature of plaintiff, prisoner number and address of
plaintiff

I declare under penalty of perjury that the foregoing is true and correct.

10-19-07
(Date)

X John A Stewart Sr
Signature of plaintiff

IN THE UNITED STATES DISTRICT COURT
SOUTHERN District of Mississippi
SOUTHERN Division

John Allen Stewart (pro se)
(on behalf of his deceased wife)
Cheryl Lynn Smith Stewart

PLAINTIFFS

VERSUS

CASE NO. _____

HARRISON Co. Sheriff Dept.
Sheriff GEORGE H. PAYNE, JR.
HEALTH ASSURANCE, LLC
DR. Compton, M.D.

DEFENDANTS

PLAINTIFF'S STATEMENT OF CLAIM

COMES NOW, THE PLAINTIFF, John ALLEN STEWART, JR. ON behalf of his deceased wife, Cheryl Lynn Smith STEWART hereby files this Statement of Claim under Civil Rights Act, 42 U.S.C. § 1983, and would show unto this Honorable Court the following, to-wit: Plaintiff's Request to proceed IN FORMA PAUPERIS in support thereof:

STATEMENT OF CLAIM CONTINUES

I.

- A. ON DECEMBER 23, 2004, my wife, CHERYL LYNN SMITH-STEWART (THE DECEASED) WAS EXAMINED BY DR. RAINER, M.D. OF LONG BEACH, MISSISSIPPI. DR. RAINER EXPRESSED DIRE CONCERN FOR THE SWOLLEN LYMPH GLAND ON THE LEFT-SIDE OF HER NECK. DUE TO THE URGENCY OF THE SITUATION, HE IMMEDIATELY SCHEDULED HER "EMERGENCY" SURGERY FOR THE REMOVAL OF THE SWOLLEN GLAND, A BIOPSY.
- B. LATER ON THAT SAME DAY (DECEMBER 23, 2004) CHERYL LYNN SMITH-STEWART WAS ARRESTED, AND CHARGED WITH POSSESSION OF COCAINE UPON WHICH SHE WAS PLACED IN THE HARRISON COUNTY ADULT DETENTION CENTER (HCADC). SHE IMMEDIATELY NOTIFIED JAIL OFFICIALS, AND HEALTH ASSURANCE, LLC NURSES OF HER CONDITION, AND SCHEDULED BIOPSY SURGERY; AND **NO ACTION WAS TAKEN**. AS A RESULT, CHERYL LYNN SMITH-STEWART MISSED HER SCHEDULED BIOPSY ON DECEMBER 27, 2004, AND HER CONDITION RAPIDLY WORSENED.
- C. (THE DECEASED), CHERYL LYNN SMITH-STEWART

STATEMENT OF CLAIM CONTINUES

constantly complained / AND SHOWED HEALTH ASSURANCE NURSES THE RAPIDLY growing lump in HER NECK, AND CONTINUE TO PLEA FOR MEDICAL ATTENTION, but WAS IGNORED by the MEDICAL STAFF, which Administered medication(s) twice daily in her housing Unit. MEDICAL REQUEST FORMS WERE PROPERLY FILLED OUT, AND SENT to the MEDICAL DEPARTMENT, but WERE NEVER ANSWERED. PLAINTIFF (CHERYL STEWART) WAS ALLOWED to SUFFER TREMENDOUSLY AT THE HANDS, OR SUPERVISION of the DEFENDANTS until it had gotten to the point that SHE NO LONGER COULD OPEN HER MOUTH OR EVEN SWALLOW.

D. Finally AFTER A month of NEGLECT, SHE WAS EXAMINED, AND SENT OUT to GULFPORT MEMORIAL HOSPITAL for MEDICAL TREATMENT. DOCTORS THERE AT the hospital IMMEDIATELY ADMITTED HER FOR EMERGENCY SURGERY, AFTER THE BIOPSY, ALONG WITH MRI (MAGNETIC RESONANCE IMAGING), AND NUMEROUS OTHER TESTS CONFIRMED CANCER of the liver, lungs, and other VITAL ORGANS. PLAINTIFF WAS RELEASED FROM CUSTODY.

STATEMENT OF CLAIM CONTINUE

E. On August 28, 2005 while plaintiff, Cheryl Lynn Smith - Stewart was en route to Singing River for her Kemo therapy; HARRISON County Sheriff Deputies stopped her on I-10 highway, and arrested her for a warrant in the State of Florida.

She was again detained in the HARRISON County Adult Detention Center (HACD), and denied her life saving Kemo therapy.

The medical department at the jail (Health Assurance, LLC) had full knowledge of the severity of Plaintiff's condition.

They continued to deny her proper medication showing a deliberate indifference to her serious medical needs, and as a result; Cheryl Lynn Smith - Stewart's health rapidly began to diminish.

F. The State of Florida confirmed to HARRISON County officials that, "they would NOT EXTRADITE HER FINALLY AFTER twenty-eight (28) days, and Stewart was RELEASED by HCSD".

G. Plaintiff, Cheryl Stewart, was taken

STATEMENT OF CLAIM CONTINUE

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to South Baldwin CANCER CENTER Located in Foley, Alabama WHERE they confirmed the CANCER had ADVANCED tremendously bad, due to the **denial** AND INTERRUPTION of her KEMO therapy by HARRISON County's medical Clinic (HEALTH ASSURANCE). A last attempt to SAVING her LIFE was initiated by A SERIES OF SIXTEEN (16) RADIATION treatments, and upon COMPLETION it was DETERMINED that the CANCER could not be STOPPED, and PLAINTIFF, CHERYL LYNN SMITH-STEWART died a PAINFUL DEATH AS A RESULT.

WRONGFUL DEATH LAWSUIT

Signed ON THIS 19th day of OCTOBER, 2007

X John A. Stewart, Jr.
John ALLEN STEWART, JR.
(Husband of the Deceased)
Co-Plaintiff